IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4875 OF 2006

Lalita Narayan Dabhade ..Petitioner

Vs.

State of Maharashtra and ors. ..Respondents

Mr. R.K. Mendadkar with Helen K. Mandlik for petitioner.

Mr. C.R. Sonawane, AGP for respondent nos.1 to 3 & 5.

CORAM: B.H. MARLAPALLE & J. H. BHATIA,JJ.

Date : November 23, 2006.

P.C.:

1. Heard Mr. Mendadkar the learned counsel for the petitioner who is aggrieved by the order dated 17/2/2006 passed by the respondent no.2-Committee thereby turning down the claim of the petitioner that she belongs to scheduled caste (Chambhar).

2. The petitioner’s father Shri Narayan Dattu Dabhade was issued a Domicile Certificate by the Additional Chief Metropolitan Magistrate on 29/8/1978 and the petitioner was issued a caste certificate on

1/11/2003 by the Deputy Collector, Thane thereby certifying that she belongs to Chambhar-scheduled caste. On the basis of the said caste certificate she came to be admitted under the respondent no.4 - college in the academic year 2005-06 to the first year of BHMS Degree course and subject to her caste claim verification. The certificate issued by the Deputy Collector on 1/11/2003 was referred for verification through the said college and the impugned order has been passed by the respondent no.2-Committee in respect of the same.

3. The vigilance inquiry directed by the Committee recorded a finding that the petitioner's father Shri Narayan Dattu Dabhade was born on 5/4/1953 at village Hunnargi, Taluka Chikodi, District Belgaum (Karnataka State) and he was admitted in the Government High School at Belgaum where he studied upto 7th standard. He left the said school sometimes in May 1967 and entered Maharashtra in 1974. The Committee, therefore, recorded that till 1974 the petitioner's father was a resident of Karnataka State and that too after the formation of unified State of

Maharashtra on linguistic basis in 1960. The petitioner was issued notice to appear before the Committee and the petitioner's father appeared before the Committee on 26/9/2005. He was heard, which fact is not disputed before us.

4. Mr. Mendadkar submitted that once the claim was referred to the Committee it was duty bound to verify the same. In addition, the very same Committee has issued a certificate of validity of caste claim on 5/3/1998 in favour of the petitioner's cousin i.e. Milind Ganpatrao Dabhade. Ganpatrao Dabhade is the brother of the petitioner's father. No doubt this document was before the Committee but the Committee referred to the Resolution/Circular of the Government of Maharashtra issued on 24/8/1995 and held that as the petitioner's father was a resident of Karnataka State till the year 1974, the petitioner's claim as belonging to scheduled caste (Chambhar) in the State of Maharashtra could not be accepted. Mr. Mendadkar has referred to the decision in the case of Union of India and ors. vs. Dudh Nath Prasad **[(2002) 2 SCC 20]** and submitted that so long as the petitioner is an

ordinary resident of the State of Maharashtra, the respondent no.2-Committee is obliged to scrutinise the petitioner's caste claim. There is no material before us to believe that Shri Ganpatrao Dabhade was also in Belgaum and entered the Maharashtra State after 1/5/1960.

5. As noted earlier, the petitioner's father was heard by the Committee on 26/9/2005 and he could not deny or bring on record to deny the vigilance report that he came to the State of Maharashtra in the year 1974 and if the petitioner is born on 19/2/1987 she could not take the benefit available to scheduled caste in the State of Maharashtra. The school leaving certificate issued by Don Bosco High School, Dombivali shows that she was born in 1987 at Belgaum and was admitted to the said school on 28/4/2000. The view taken by the Committee based on the Circular issued by the State Government on 24/8/1995 cannot be held to be illegal or perverse as the said view is based on two Constitution Bench decisions of the Apex Court, namely, Marri Chandra Shekhar Rao vs. Dean, Seth G.S. Medical College and ors. **[(1990) 3 SCC 130]** and

Action Committee On Issue Of Caste Certificate to Scheduled Castes and Scheduled Tribes in the State of Maharashtra and anr. vs. Union of India and anr. **[(1994) 5 SCC 244]**. The decision in the case of Dudh Nath Prasad (Supra) relied upon by Mr. Mendadkar is not applicable to the facts of this case. Even if Belgaum was part of the unified State of Bombay before 1/5/1960, the petitioner cannot claim the benefit of scheduled caste in the State of Maharashtra as has been laid down in Action Committee's case (Supra).

6. Hence, the petition fails at the threshold and the same is hereby rejected summarily.

7. Mr. Mendadkar made an oral application to stay the operation of this judgment. The oral application is allowed and the operation of the judgment is stayed for a period of six weeks from today.

(J.H. Bhatia, J.) **(B.H. Marlapalle,J.)**